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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

4

Application Number

10/648,508

Filing Date

August 25, 2003

First Named Inventor

Brzozowski, Frank T.

Art Unit

2873

Examiner Name

Huy K. Mai

Attorney Docket Number

ENCLOSURES (Check all that apply)☐

Fee Transmittal Form

☐

Fee Attached

☒

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐Reply to Missing Parts/
Incomplete Application☐Reply to Missing Parts
under 37 CFR 1.52 or 1.53☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐Petition to Convert to a
Provisional Application☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

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Terminal Disclaimer

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Request for Refund

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CD, Number of CD(s) _____

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Remarks

☐

After Allowance Communication to TC

☐Appeal Communication to Board
of Appeals and Interferences☐Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐

Proprietary Information

☐

Status Letter

☒Other Enclosure(s) (please identify
below):

Postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Wenger Law Offices

Signature

Printed name

Patricia A. Wenger

Date

December 10, 2004

Reg. No.

42,218

CERTIFICATE OF TRANSMISSION/MAILING

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December 10, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Frank Brzozowski

Serial No.: 10/648,508

Filed: August 25, 2003

For: Configurable Eyewear

Group Art Unit: 2873

Examiner: Huy Kim Mai

Honorable Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement set forth in the Office Action mailed on November 10, 2004, Applicant elects claims 19-38, 43, 44 for examination without prejudice.

RESPONSE TO ELECTION REQUIREMENT

In response to the election requirement set forth in the Office Action mailed on November 10, 2004, Applicant elects claims 30-33, 37, and 38 for examination without prejudice, and with traverse. Claims 19, 25-29, 34, and 44 are generic to the elected claims.

Applicant submits that two distinct species between claims 20-24, 35, 36, and 43 and claims 30-33, 37, and 38 does not exist. As seen in the specification and the drawings, including, but not limited to, Figures 1-3, 12-16, 21-30, and 27-28, embodiments including a memory member (indicated by reference number 128) also can include: 1) a

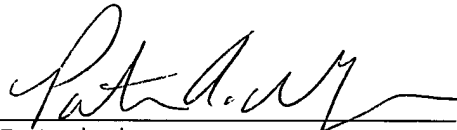
turning member (indicated by reference number 90a); 2) a peripheral edge (indicated by reference number 98); a peripheral area (indicated by reference number 92); a containment stop member (indicated by reference number 94); and a rotator (indicated by reference number 90.) Accordingly, claims 20-22, 24 and 35 are generic claims.

Applicant further submits that claims 20-24, 30-33, 35-38, and 43 are generic or related, and that it would not be a serious burden on the Examiner if the election were not required. Specifically, Applicant submits that the related claims are not separately classified, do not have a separate status in the art, and do not require a different field of search.

Accordingly, requiring Applicant to elect between claims 20-24, 35, 36, and 43, and claims 30-33, 37, and 38 is improper. If the Examiner has any questions, Examiner is requested to contact the Applicant's attorney.

Date: 12/10/04

Respectfully Submitted,



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